

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

11-MJ-1244 GBW

EDUARDO LERMA JR.,

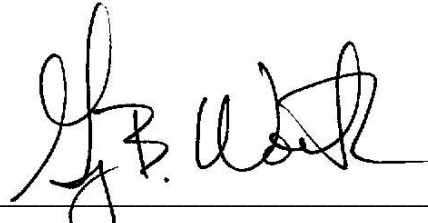
Defendant.

ORDER DENYING MOTION TO CONTINUE GRAND JURY PRESENTMENT

THIS MATTER is before the Court on the Defendant Lerma's Motion to Continue Grand Jury Presentment. *Doc. 18*. Having reviewed the Motion, the Court finds that it must be denied.

This Court is loth to deny unopposed motions to continue grand jury presentment. Nonetheless, a sufficient record must be created to justify granting such a motion. *See United States v. Toombs*, 574 F.3d 1262 (10th Cir. 2009). As the Motion recognizes, *Toombs* requires that the record "contain an explanation of why the mere occurrence of the event identified by the party as necessitating the continuance results in the need for additional time." *Id.* at 1271. Unfortunately, the Motion does not create such a record. The only explanation for why the continuance should be granted is that "[p]lea negotiations are ongoing and additional time is needed to complete the plea negotiations in this matter."

*Doc. 18*, ¶3. This explanation is insufficient under *Toombs* not least because it fails to explain why the plea negotiations could not continue post-indictment. As such, the Motion is hereby DENIED.

A handwritten signature in black ink, appearing to read 'G.B. Wormuth', is written over a horizontal line.

GREGORY B. WORMUTH  
United States Magistrate Judge